

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK SMITH,

Defendant.

8:11CR213

ORDER

Defendant Mark Smith appeared before the court on November 14, 2017 on an Amended Petition for Warrant or Summons for Offender Under Supervision [50]. The court will dismiss the Petition for Warrant or Summons for Offender Under Supervision [37] pursuant to the government's oral motion and proceed with the Amended Petition [50]. The defendant was represented by Federal Public Defender David R. Stickman, and the United States was represented by Assistant U.S. Attorney Martin J. Conboy, IV. Through his counsel, the defendant waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). The government moved for detention. Through counsel, the defendant declined to present any evidence on the issue of detention and otherwise waived a detention hearing. Since it is the defendant's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a danger to the community nor a flight risk, the court finds the defendant has failed to carry his burden and that he should be detained pending a dispositional hearing before Chief Judge Smith Camp.

I find that the Report alleges probable cause and that the defendant should be held to answer for a final dispositional hearing before Chief Judge Smith Camp.

IT IS ORDERED:

1. The Petition for Warrant or Summons for Offender Under Supervision [37] is dismissed on the oral motion of the government.

2. A final dispositional hearing will be held before Chief Judge Smith Camp in Courtroom No. 2, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, on December 21, 2017 at 10:30 a.m. Defendant must be present in person.

3. The defendant, Mark Smith, is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

4. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

5. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Dated this 15th day of November, 2017.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge